

**DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
OF THE ARMY (CIVIL WORKS)
COMPLETE STATEMENT
OF
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BEFORE THE
COMMITTEE ON RESOURCES
SUBCOMMITTEE ON FISHERIES CONSERVATION, WILDLIFE AND OCEANS

ON
THE ESTUARY HABITAT RESTORATION PARTNERSHIP ACT OF 1999

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INTRODUCTION

Mr. Chairman and members of the Subcommittee, I am Michael L. Davis, Deputy Assistant Secretary of the Army for Civil Works. I am here today to discuss the Army Corps of Engineers environmental restoration and protection mission and present the Department of the Army's views on H.R. 1775, the Estuary Habitat Restoration Partnership Act of 1999.

ARMY CORPS OF ENGINEERS ENVIRONMENTAL MISSION

For over 200 years the Nation has called upon the Army Corps of Engineers to solve many of its water resources problems. Historically, the Corps has emphasized its traditional mission areas of improving our navigation and transportation system, protecting our local communities from flood damages and other disasters, and maintaining and improving hydropower facilities across the country. The Corps environmental activities have expanded over time with major changes in environmental law and policy, such as the National Environmental Policy Act of 1969, which requires each Federal agency to assess fully its actions affecting the environment, and the Federal Water Pollution Control Act of 1972 (now called the Clean Water Act) in which the Corps was given a major responsibility for regulating the discharge of dredged or fill material into all of our Nation's waters, including wetlands. In recent years, however, pursuant to the Water Resources Development Act (WRDA) of 1986 and subsequent WRDAs, the Corps has elevated its environmental restoration and protection mission to a status equal to its flood damage reduction and navigation missions. The Corps now uses its engineering, project management, real estate, and environmental expertise to address environmental restoration and protection opportunities.

The Corps has a powerful toolkit of standing authorities and programs that can be brought to bear to help solve environmental problems. Over the last decade alone the Corps has helped to restore hundreds of thousands of acres of habitat of many types which benefit

thousands of fish and wildlife species. Examples include: 28,000 acres of habitat restored for the Upper Mississippi River (98,000 projected by 2005); hundreds of acres of coastal wetlands restored in Louisiana; 35,000 acres of restored flood plain under construction as part of the Kissimmee River Restoration Project in the Florida; and, hundreds of acres of coastal wetlands restored under authorities which authorize the Corps to beneficially use dredged material for ecosystem restoration.

On July 1, the Army submitted to Congress a comprehensive plan to restore the Everglades, the world's largest ecosystem restoration project. This plan will help protect, enhance and restore over 2.4 million acres of wetlands in the south Florida Ecosystem as well as improve the health of estuaries and Florida Bay.

We are especially proud of our efforts on all coasts in conjunction with the Coastal America initiative. Some examples of projects where the Corps, using its programs, led multi-agency, multi-level efforts (Federal, State, local and private) include: restoration of a coastal salt marsh area in the Galilee Bird Sanctuary, Rhode Island; the initial demonstration area for restoration of tidal wetlands in the Sonoma Baylands, California; the Sagamore Salt Marsh Restoration, Massachusetts; initiation of actions to restore 1100 acres to provide riparian and submerged habitat at Poplar Island, Chesapeake Bay, Maryland; and, shoreline stabilization and submerged aquatic vegetation restoration around Tangier Island in the Chesapeake Bay. Our FY 2000 budget request includes study funds for 12 potential projects directed at protecting or restoring the benefits of estuaries, as well as funding for many other activities that would be beneficial to the environment in or adjacent to our Nation's estuaries.

SIGNIFICANCE OF ESTUARINE AND COASTAL AREAS

Throughout the world, estuarine and coastal areas serve as focal points for human use and development. These same areas also perform critical functions from an ecosystem perspective, providing habitat and food for myriad fish and wildlife species. Estuaries are unique in that they serve as a transition zone between inland freshwater systems and uplands, and ocean marine systems. There is an urgent need to protect and restore these ecosystems recognizing the economic, social, and environmental benefits they provide. In this regard, we would add as a purpose of the bill the need to promote a greater public appreciation and awareness of the value of our estuary and coastal resources. As with many environmental issues, future generations depend upon our actions today.

Legislation to expand the authority of the Corps to use its unique skills and experience to restore and protect estuary habitat would add to the Corps environmental portfolio. Let me assure you that the Department of the Army therefore is prepared to take a leadership role in reaching the goals of H.R. 1775. Army would approach implementation of H.R. 1775 in accordance with the policies and procedures which grew out of the Water Resources Development Act (WRDA) of 1986, subsequent WRDAs, and long-standing partnership and public involvement practices.

Additionally, Army would explore the possibility of using the existing organization and structure of the Coastal America partnership to jump-start restoration efforts. Coastal America

has National and Regional Implementation Teams already in place, and many of the members of these teams would be the very same experts we would consult with under H.R. 1775.

H.R. 1775

I would now like to focus on the Department of the Army views on H.R. 1775. The Department of the Army supports efforts to enhance coordination and efficiently finance environmental restoration and protection projects. The goal of restoring 1 million acres of estuary habitat by the year 2010 is in consonance with the President's Clean Water Action Plan and the goal of a net increase of 100,000 acres of wetlands, annually, beginning in the year 2005. We also agree with the philosophical basis for the legislation, that estuaries and coastal areas are being degraded rapidly, and that there is an urgent need to attain self-sustaining, ecologically-based systems that are integrated into surrounding landscapes. The proposed national framework, or national estuary habitat restoration strategy, to be completed at the end of the first year, should help partners identify and integrate existing restoration plans, integrate overlapping plans, and identify processes to develop new plans where they are needed. This framework document could help us maximize incentives for participation, leverage Federal resources, and minimize duplication of efforts. We support the requirement to publish the draft strategy in the *Federal Register* for review and comment to enhance public involvement. We believe that the legislation is consistent with the National Estuary Program (NEP), which was established to manage and protect aquatic ecosystems in coastal watersheds, and the National Estuarine Research Reserve System, which uses science to improve management of estuaries. The NEP strives to protect and restore habitat through consensus and initiatives which are community-based. The legislation also is consistent with the Coastal Wetlands Preservation Protection and Restoration Act, a unique multi-Federal and State agency partnership which is working to restore and protect approximately 73,000 acres of coastal wetlands in Louisiana over a 20-year period.

We are pleased to note that important changes that the Army requested at a Senate Committee hearing held on companion legislation, S. 1222, last Congress have been incorporated into H.R. 1775. These changes limit Federal assistance for each habitat project to 65 percent, strengthen the role of the Secretary of the Army commensurate with the need for accountability for appropriations received, and allow the Restoration Council to consider, where appropriate, non-governmental organizations as sponsors for environmental restoration and protection projects. H.R.1775 is a bill that the Department of the Army could support.

We urge the Committee to revise the bill to make clear that non-Federal sponsors are responsible for providing all lands, easements, rights-of-way, dredged material disposal areas and relocations, as is required for Army Civil Works water resources projects. We also believe the Secretary should make the determination as to the acceptability and valuation of in-kind contributions for local cost sharing, rather than the proposed Council.

We urge you to consider expanding the geographic scope of the habitat protection and restoration activities proposed in H.R. 1775 to include the Great Lakes region, which faces many of the same challenges as coastal regions of the United States. This coastal region has many ecosystem problems that mirror those of more traditional coastal areas and has, for that reason, been included as a coastal region in the programs authorized under the Coastal Zone

Management Act of 1972, as amended, and in the Administration's Coastal America Initiative. We believe that the addition of a regional council representing the Great Lakes region, to include the States of Minnesota, Wisconsin, Illinois, Indiana, Michigan, Ohio, Pennsylvania and New York, merits serious consideration.

Many environmental restoration techniques and approaches are new, and when dealing with natural systems, there is a need to test new ideas, learn from successful and not so successful projects, and manage adaptively to adjust to ever-changing conditions. Environmental restoration efforts for the Everglades, the Upper Mississippi River System Environmental Management Program, and the Coastal Wetlands Preservation Protection and Restoration Act, all acknowledge, to varying degrees, the value of demonstration projects and adaptive assessment approaches. Adding to H.R. 1775 a demonstration component with a cost share that is consistent with that applied to habitat projects, and a requirement for non-Federal sponsors to manage adaptively, would encourage the partners to try out new ideas and learn more about how to restore and protect estuary and coastal areas.

While we recognize that this Committee does not have direct jurisdiction over this issue, it is important to note that the Administration feels strongly that H.R. 1775, and any bill purporting to strengthen protection of estuarine and coastal habitat, should address the most serious threat to water quality in coastal and other waters by closing a regulatory gap that threatens the loss of tens of thousands of acres of wetlands to drainage and excavation each year. This gap, which resulted from a court decision invalidating the U.S. Environmental Protection Agency and Army Corps of Engineers "Tulloch" rule requiring permits for drainage and channelization that affect our Nation's wetland resources, promises to defeat the laudable goals of H.R. 1775 unless Congress takes prompt action.

We applaud the co-sponsors of H.R. 1775 for their vision and leadership in this area. The Army supports H.R. 1775 and looks forward to working with you and your Senate counterparts in enacting such legislation.

CONCLUSION

The Corps has been increasingly involved in recent years with efforts to protect and restore the benefits of estuaries and their surrounding habitat. The Department of the Army is also looking forward to working with the Environmental Protection Agency, the Departments of Commerce, Agriculture, Interior, and Transportation, and the non-Federal participants in the designated coastal regions, to restore and protect our nation's estuary habitat. You can be assured that Army Civil Works is committed to making partnerships work. Mr. Chairman, this concludes my testimony. I would be pleased to answer any questions you or the subcommittee may have.